



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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MAY - 6 2014

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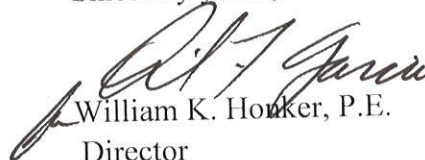
Dear Dr. Appeaning:

Enclosed is the final State Fiscal Year (SFY) 2013 base program Clean Water State Revolving Fund (CWSRF) annual Program Evaluation Report (PER). The report is based on the State's FY 2013 CWSRF Annual Report, on-site discussions and file reviews in August 2013 and February 2014, and the EPA's completion of our standardized national checklists of program evaluation questions. We appreciate your assistance, as well as that of your staff, in this review process.

The CWSRF requires that states comply with Title VI, Section 606(e) of the Clean Water Act (CWA), 40 CFR 35.3165(c), its capitalization grant conditions, and operating agreement conditions. Our review showed that the Louisiana Department of Environmental Quality (LDEQ) was in compliance in SFY 2013. One of the highlights recommends that LDEQ continue to focus on reducing unliquidated obligations.

We appreciate the efforts of the LDEQ in protecting the waters in the state of Louisiana. If you have any questions regarding the report, please feel free to contact me at (214) 665-7100, or have your staff contact Mr. Troy Hill at (214) 665-7110.

Sincerely yours,



William K. Houker, P.E.

Director

Water Quality Protection Division

Enclosure

cc: Ms. Karyn Andrews (LDEQ)  
Ms. Sierra Trabeau (LDEQ)  
Mr. Jonathan McFarland (LDEQ)

CLEAN WATER STATE REVOLVING FUND  
ANNUAL PROGRAM EVALUATION REPORT

STATE OF LOUISIANA

FISCAL YEAR 2013

(STATE FISCAL YEAR 7/1/12- 6/30/13)

Prepared by EPA Region 6

Assistance Programs Branch

## **I. Introduction**

The purpose of this Program Evaluation Report (PER) is to present findings, conclusions, and recommendations based on the State's Fiscal Year 2013 (SFY 2013) operation of the Clean Water State Revolving Fund (CWSRF) Program, and to document whether the State has complied with the requirements of Title VI of the Clean Water Act (CWA).

CWA Title VI, Section 606(e), and 40 CFR 35.3165(c) require the Environmental Protection Agency (EPA) to conduct an annual review of each State's SRF in terms of the Annual Report and other such materials considered necessary and appropriate in carrying out the purposes of Title VI of the CWA.

The purposes of the annual review are:

- to evaluate the success of the state's performance in achieving goals and objectives identified in the Intended Use Plan (IUP), and the state's Annual Report;
- to evaluate the state's compliance with its Operating Agreement;
- to determine compliance with Part 31 of the general grant regulations and the provisions of the capitalization grant agreement, including special conditions;
- to assess the financial status and performance of the fund;
- to review the status of resolution of prior year Program Evaluation Report (PER) findings; and
- to examine and follow up on any open audit findings and recommendations.

## **II. Review Results and EPA Recommendations**

EPA reviewed LDEQ's operations for SFY 2013 (July 1, 2012 to June 30, 2013). The review was conducted on-site, at the LDEQ in August 2013 and February 2014. The following grants were subject to review: #CS22000211, #CS22000212, and #CS22000213. We reviewed the following project files: Crowley/Acadia (#CS22145-02) and Hornbeck/Vernon (#CS2212260101). Notwithstanding the following observations, EPA found that LDEQ is in compliance with Title VI, Section 606(e) of the CWA, 40 CFR 35.3165(c), the capitalization grant conditions, and operating agreement conditions.

### **A. Programmatic Review Results and Recommendations**

**Unliquidated Obligations (ULO's):** At the time of this narrative, LDEQ had a \$6,226,789 ULO balance – these were all SFY 2012 and SFY 2013 funds.

**EPA Follow-Up:** EPA will monitor LDEQ's efforts to meet their goal of reducing the ULO balance.

**Staffing:** LDEQ is appropriately staffed to effectively maintain the CWSRF program. During staff interviews EPA was able to determine that staff are very knowledgeable on all aspects of the CWSRF program.

## B. Environmental and Technical Review Results

### The City of Hornbeck- CS-221226-01; AI #18805

**Davis Bacon:** Davis Bacon guidance language was not included. Instead, CFR 29 language was found.

**EPA Recommendation:** LDEQ was compliant with Davis Bacon wage rate requirements. However, in the future, LDEQ will need to include Davis Bacon SRF guidance language (mandated from EPA HQ) instead of Davis Bacon CFR 29 language. For future contracts, use the Davis Bacon SRF guidance language, and the proper wage rate.

### The City of Crowley - CS-221145-02; AI #4689

**Wage rate language:** Wage rate and language are to be updated per the re-bid process.

**EPA Recommendation:** Provide a checklist or written process to remind state personnel to review contract documents for the appropriate terms, conditions, wage rates and current language per the SRF guidance.

## C. Financial Review Results and Recommendations

**Cash Draws:** On December 11, 2013, EPA regions were notified, by EPA Office of the Chief Financial Officer (OCFO), of the Office of Management and Budget's (OMB) decision to subject random SRF transaction tests. The random tests were to develop a national estimate of improper payments for the SRF programs. Five (5) base transactions were randomly selected from the LDEQ CWSRF program's SFY 2013 draws. One (1) by OCFO to be included in this year's PER and four (4) transactions were selected by Region 6 EPA. The one (1) OCFO transaction was tested in lieu of the transactions selected by Region 6 EPA for the review.

The following five (5) LDEQ CWSRF cash draw transactions were reviewed.

| <u>Grant #</u> | <u>Date</u> | <u>Federal Draw</u> |              |
|----------------|-------------|---------------------|--------------|
| 1. CS22000211  | 07/10/2013  | \$410,861.00        | Region 6 EPA |
| 2. CS22000212  | 06/21/2013  | \$31,329.00         | Region 6 EPA |
| 3. CS22000212  | 06/05/2013  | \$-31,329.00        | Region 6 EPA |
| 4. CS22000212  | 10/29/2012  | \$2,236,017.00      | OCFO         |
| 5. CS22000212  | 01/23/2013  | \$667,970.00        | Region 6 EPA |

Region 6 EPA selected cash draw #1 for \$410,861.00. The draw contained all of the backup documentation needed to substantiate the transaction. The transaction consisted of two requests: one for the Town of Homer, and the other for the Town of Jonesboro. Jonesboro was paid out with 100% federal funds because this was a principle forgiveness project. In order to keep the transaction ratio at the required regulation of 83.33% federal and 16.67% state match, LDEQ adjusted the Town of Homer's request to ensure that the final ratio was in-line with federal cash draw ratio regulations. This adjustment allowed for this federal transaction draw to be accurate, but not all adjustments will be 100% in-line with the required ratio.

**EPA Recommendation:** We recommend that LDEQ apply the required ratio equally across the board for each invoice received, and go back to ensure that invoices with similar adjustments are modified correctly to meet the required 83.33% federal and 16.67% state match ratio.

**EPA Recommendation:** LDEQ's other option would be to draw 100% state match. Once the state match is completely drawn down, LDEQ can then draw 100% federal. This can help eliminate any draw ratio confusion or issues.

**LDEQ Response:** The LDEQ has always done the required 83.33% federal and 16.67% state match ratio. This was an isolated incident as our accountant at the time was very confused about the way these subsidy projects were to be drawn and forgiven based on our state statutes. We've done a 100% review of all of these subsidy project's transactions and there were only 4 disbursements that were done that way, and they have all been corrected to the required 83.33% federal and 16.67% state match ratio.

**Negative Transaction:** EPA Region 6 selected cash draw #2 for \$31,329.00, and cash draw #3 for \$-31,329.00. These contained all of the required backup documentation to validate the transactions, and explained why cash draw #3 showed as a negative transaction. The federal funds were first pulled from the 2011 capitalization grant on 06/05/13, then LDEQ reversed the funds on 06/05/13 on the 2012 capitalization grant - believing that this invoice should be pulled from this grant. LDEQ then realized that they reversed the wrong capitalization grant, but before LDEQ made any more changes it was decided that LDEQ could do the first in, first out (FIFO) method. This allowed LDEQ to pull the funds back from the 2012 capitalization grant, which made the two transactions (\$31,329, and \$-31,329) zero each other out. The original transaction was correctly pulled from the 2011 grant, which follows the FIFO method. This does not constitute an improper payment, because the invoices substantiated the amount of federal funds drawn down. LDEQ's confusion could have possibly been avoided if LDEQ applied the FIFO method to every invoice, including green and subsidy.

**Cash Draw #4:** OCFO selected cash draw #4 for \$2,236,017.00. This contained all of the required invoices to substantiate this federal draw. No improper payment was noted.

**Cash Draw #5:** Region 6 selected cash draw # 5 for \$667,970. This contained all of the required invoices to substantiate this federal draw. No improper payment was noted.

**EPA Recommendation:** EPA recommends that LDEQ use the FIFO method, including on green and subsidy. This will enable LDEQ to close out several of their open grants, as an alternative to leaving a grant open to wait for green and subsidy projects to be completed.

**LDEQ Response:** As stated above, our accountant at the time was confused about the way the subsidy projects were to be drawn and forgiven. This was also an isolated incident as the LDEQ has always drawn funds FIFO, and will continue to do so.

**Open Grants:** Currently LDEQ has two open capitalization grants (2012, 2013). EPA Headquarters prefers to see states with only two capitalizations grant open at one time, and would encourage states to draw down their federal funds within a two years window from receiving the capitalization grant. LDEQ is on track, and is doing an excellent job getting funds out timely and expeditious. LDEQ closed twelve loans in SFY 2013 totaling \$91,856,500. These projects were spread over ten parishes and twelve different municipalities. This enabled LDEQ to distribute

funding to qualified recipients across the state, and make an extensive advance in achieving compliance with Federal and State water quality standards.

**EPA Commendation:** EPA commends LDEQ for exceeding their goals of eight closings totaling \$80 million in funding, as set in the SFY 2013 IUP.

**State Match:** The CWSRF program requires the State to match the capitalization grant with 20% State funds. LDEQ's FFY 2013 appropriation of \$14,677,000 requires state matching funds of \$2,935,400 (20%). LDEQ will issue state match bonds once the grant has been awarded to be put towards meeting state match requirements for SFY 2013. The state match bonds are repaid using interest earnings on investments and assistance agreements. The match is deposited before the federal cash draws are drawn. LDEQ indicated that this source is sufficient to provide the 20% match now and into the foreseeable future.

**Financial Management:** The State is currently financially managing its program effectively. The program has the staff, and the financial internal controls to minimize deficiencies and potential risk. Internal controls are continuously reviewed and/or modified to improve efficiency and to prevent errors.

**State Audit:** LDEQ's SFY 2013 "Independent Auditors' Report" for the year ending June 30, 2013 was conducted by Pinell & Martinez, LLP, and completed on January 30, 2014. No material weaknesses, deficiencies, or findings were reported for the CWSRF program in the audit submitted to EPA. The audit received an unmodified opinion.

**EPA Commendation:** EPA commends LDEQ for their audit. The audit validates LDEQ's effort to maintaining a compliant program.

#### **Financial Indicators:**

The State reported the following cumulative financial indicators:

| Indicator   | National Avg. | 2010 | 2011 | 2012 | 2013 |
|---|---------------|------|------|------|------|
| Return on Federal Investment                                | 255%          | 149% | 144% | 143% | 146% |
| Assistance Provided as % of Funds Available                 | 97%           | 86%  | 91%  | 89%  | 90%  |
| Disbursements as % of Assistance Provided                   | 88%           | 76%  | 73%  | 74%  | 72%  |
| (These numbers were obtained from the SFY 2013 NIMS report) |               |      |      |      |      |

LDEQ's financial indicators are holding firm with a slight increase in both the "Return on Federal Investment" and also the "Executed Loans as a % of Funds Available", also known as the "Pace" of the program. Currently, LDEQ is just under the national average in all of the financial indicators. However, this is not indicative of LDEQ's positive strides in the last three years.

**EPA Recommendation:** For each of the financial indicators, EPA encourages LDEQ to include "exceed the national average" in their short term financial goals.

**LDEQ Response:** LDEQ will continue to exhaust our efforts to exceed the national average.

**EPA Commendation:** EPA is encouraged to see LDEQ's progress over the last several years as

their "Pace" of the program has significantly increase from 80% in SFY 2009 to 90% in SFY 2013.

### III. Statement of Compliance with SRF Annual Review Guidance

We have conducted an annual review of the Louisiana Department of Environmental Quality's Clean Water State Revolving Fund Program for program year 2013 in accordance with EPA's SRF Annual Review Guidance.

### IV: Follow-up Action Items

| ACTION ITEMS  | RESPONSIBILITY | DUE DATE |
|---|----------------|----------|
| 1. Continue to work on reducing the ULO balance.  | LDEQ           | Ongoing  |
| 2. Include Davis Bacon guidance language, instead of Davis Bacon CFR 29 language in future contracts.   | LDEQ           | Ongoing  |
| 3. Create a checklist or written process to ensure final contracts are current with SRF terms and conditions.   | LDEQ           | Ongoing  |
| 4. Apply the required ratio equally across the board for each invoice received, and go back to ensure that invoices with similar adjustments are modified correctly to meet the required 83.33% federal and 16.67% state match ratio. | LDEQ           | Ongoing  |
| 5. Draw 100% state match. Once the state match is completely drawn down, LDEQ can then draw 100% federal. This can help eliminate any draw ratio confusion or issues.   | LDEQ           | Ongoing  |
| 6. Apply the FIFO method across all transactions, including green and subsidy.  | LDEQ           | Ongoing  |
| 7. For each of the financial indicators, include "exceed the national average" in short-term financial goals.   | LDEQ           | Ongoing  |